
HOUSE BILL No. 1958

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-21; IC 27-8-5.7; IC 27-13-9-5.

Synopsis: Prescription discount and benefit cards. Provides that a person may not sell, market, promote, advertise, or distribute a card, device, or other purchasing mechanism that is not insurance that purports to offer discounts or access to discounts from a pharmacy for prescription drug or device purchases if certain conditions exist. Provides penalties for violations. Requires the insurance commissioner to adopt rules that establish uniform requirements for prescription drug information or other technology issued by an insurer, a health maintenance organization, or certain other entities. Establishes criteria that must be incorporated into the uniform prescription drug information rules.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1958

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-21 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:

4 **Chapter 21. Prescription Drug Discount Cards**

5 **Sec. 1. This chapter does not apply to the following:**

6 (1) Eye or vision care services, glasses, or contact lenses
7 provided by an optometrist or ophthalmologist.

8 (2) A card, device, or other purchasing mechanism that is not
9 insurance but that is administered in conjunction with a
10 health or medical benefit by an insurance company, a
11 nonprofit health service plan corporation, or a health
12 maintenance organization.

13 (3) A benefit administered by or under contract with the state
14 of Indiana.

15 (4) A customer discount or membership card issued by a store
16 or buying club for use at that store or buying club.

17 **Sec. 2. As used in this chapter, "person" has the meaning set**

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1 forth in IC 24-5-0.5-2.

2 **Sec. 3.** A person may not sell, market, promote, advertise, or
 3 distribute a card, device, or other purchasing mechanism that
 4 purports to offer discounts or access to discounts from a pharmacy
 5 for prescription drug or device purchases in the following
 6 situations:

7 (1) The card, device, or other purchasing mechanism does not
 8 expressly state in bold and prominent type, which is
 9 prominently placed, that the discounts are not insurance.

10 (2) The discounts are not specifically authorized by an
 11 individual and separate contract with each pharmacy listed
 12 with the card, device, or other purchasing mechanism.

13 (3) The discounts or access to discounts offered, or the range
 14 of discounts or access to the range of discounts offered are
 15 deceptive or misleading.

16 **Sec. 4.** A person, who is not exempt under section 1 of this
 17 chapter, who sells, markets, promotes, advertises, or distributes a
 18 card, device, or other purchasing mechanism that purports to offer
 19 discounts or access to discounts from a pharmacy for prescription
 20 drug or device purchases shall designate a resident in Indiana as an
 21 agent for service of process and register the agent with the
 22 secretary of state.

23 **Sec. 5.** A contract entered into to purchase a card, device, or
 24 other purchasing mechanism that purports to offer discounts or
 25 access to discounts from a pharmacy for prescription drug or
 26 device purchases that does not comply with this chapter is voidable
 27 by the purchaser.

28 **Sec. 6. (a)** The attorney general, a prosecuting attorney, or an
 29 individual may maintain an action to enjoin any act that is in
 30 violation of this chapter and for the recovery of damages.

31 (b) An action brought under this section may be brought in the
 32 county where:

33 (1) the plaintiff resides or conducts business;

34 (2) the defendant resides or conducts business; or

35 (3) the card, device, or other purchasing mechanism that
 36 purports to offer discounts or access to discounts from a
 37 pharmacy for prescription drug or device purchases was sold,
 38 marketed, promoted, advertised, or distributed.

39 (c) If the court finds that the defendant violated any provision
 40 of this chapter the court shall enjoin the defendant from continuing
 41 the acts that are in violation of this chapter.

42 (d) A plaintiff who prevails in an action under this chapter may



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recover the following:

- (1) A sum equal to one hundred dollars (\$100) per card, device, or other purchasing mechanism that is sold or distributed in Indiana or ten thousand dollars (\$10,000), whichever is greater.
- (2) Three (3) times the amount of actual damages, if any.
- (3) Reasonable attorney's fees.
- (4) Court costs.
- (5) Any other relief that the court considers proper.

Sec. 7. (a) The provisions of this chapter are not exclusive and do not relieve a person from compliance with other applicable provisions of law.

(b) The penalties in this chapter are cumulative and in addition to any applicable penalties.

(c) A person that violates this chapter is subject to the penalties set forth in IC 24-5-0.5.

(d) All actions brought under this chapter must be brought within two (2) years after the date on which the violation of this chapter occurred.

SECTION 2. IC 27-8-5.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 5.7. Insurance Benefit Cards

Sec. 1. As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis. The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy.
- (5) A limited benefit health insurance policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.



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1 **Sec. 2.** As used in this chapter, "commissioner" means the
 2 insurance commissioner appointed under IC 27-1-1-2.

3 **Sec. 3.** As used in this chapter, "insured" means an individual
 4 who is entitled to coverage under an accident and sickness
 5 insurance policy.

6 **Sec. 4. (a)** This section applies to an insurer that:

- 7 (1) issues an accident and sickness insurance policy that
- 8 provides coverage for prescription drugs or devices; and
- 9 (2) issues a card or other technology for claims processing.

10 This section also applies to a third party administrator for
 11 self-insured plans, a pharmacy benefit manager, or a health benefit
 12 plan administered by the state if the administrator, manager, or
 13 plan issues a card or other technology described in subdivision (2).

14 **(b)** The card or other technology issued by an insurer or another
 15 entity referred to in subsection (a) must contain uniform
 16 prescription drug information that complies with the requirements
 17 established under subsection (c).

18 **(c)** The commissioner shall adopt rules under IC 4-22-2 to
 19 establish uniform requirements for prescription drug information
 20 cards or other technology. The rules adopted under this subsection
 21 must require that prescription drug information cards or other
 22 technology meet the following criteria:

- 23 (1) Be in a format, and contain information fields approved
- 24 by, the National Council for Prescription Drug Programs
- 25 (NCPDP).
- 26 (2) Contain the following information:
- 27 (A) The insured identification number.
- 28 (B) The payer identification number.
- 29 (C) The insured copayment or cash discount amount.
- 30 (D) Other information required by the commissioner.

31 **(d)** The prescription drug information cards or other technology
 32 issued under this section may be used for health insurance
 33 coverage other than the coverage to which this chapter applies.

34 SECTION 3. IC 27-13-9-5 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

36 1, 2001]: **Sec. 5. (a)** This section applies to a health maintenance
 37 organization that provides coverage for prescription drugs or
 38 devices and issues a card or other technology for claims processing.

39 **(b)** The card or other technology issued by a health maintenance
 40 organization must contain uniform prescription drug information
 41 that complies with the requirements established under subsection
 42 (c).



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1 (c) The commissioner shall adopt rules under IC 4-22-2 to
2 establish uniform requirements for prescription drug information
3 cards or other technology. The rules adopted under this subsection
4 must require that prescription drug information cards or other
5 technology meet the following criteria:

6 (1) Be in a format, and contain information fields approved
7 by, the National Council for Prescription Drug Programs
8 (NCPDP).

9 (2) Contain the following information:

10 (A) The enrollee identification number.

11 (B) The payer identification number.

12 (C) The enrollee copayment or cash discount amount.

13 (D) Other information required by the commissioner.

14 (d) The prescription drug information cards or other technology
15 issued under this section may be used for health care service
16 coverage other than the coverage to which this chapter applies.

17 SECTION 4. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding
18 IC 27-8-5.7 and IC 27-13-9-5, as added by this act, an insurer or a
19 health maintenance organization is not required to issue
20 prescription drug information cards or other technology that meet
21 the requirements established under IC 27-8-5.7 and IC 27-13-9-5,
22 as added by this act, until April 1, 2002.

23 (b) This SECTION expires April 1, 2002.

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